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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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IRVING H. PICARD, :
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Plaintiff, :
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-against- :
:
SAGE REALTY, et al., :
:
Defendants. :
:
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IRVING H. PICARD, :
:
Plaintiff, :
:
-against- :
:
SAGE ASSOCIATES, et al., :
:
Defendants. :
:
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No. 20 Civ. 10109 (JFK)

ORDER

No. 20 Civ. 10057 (JFK)

ORDER

JOHN F. KEENAN, United States District Judge:

Before the Court is Plaintiff Irving H. Picard's (the "Trustee") November 24, 2021, request "to seek permission to file a motion for summary judgment." (Trustee's Letter Request for Pre-Mot. Conference, ECF No. 77.) The Defendants, in response, filed a letter opposing the Trustee's request. (Defendant's Opp'n, ECF No. 79.) On December 8, 2021, the Court held a pre-motion status conference with the parties to discuss the Trustee's request and the contemplated motion for summary judgment. For the reasons set forth below, the Trustee's

request for permission to file a motion for summary judgment is DENIED.

For purposes of this Order, the Court assumes familiarity with the facts of this case, which are set out in greater detail in Judge Alison J. Nathan's May 18, 2021, Opinion and Order granting the Defendants' motion to withdraw the bankruptcy reference. See Picard v. Sage Realty, No. 20 Civ. 10057 (AJN), 2021 WL 1987994, at *1 (S.D.N.Y. May 18, 2021). As relevant here, by letter dated June 14, 2021, the parties to this action agreed that discovery was "complete" and requested that the consolidated cases proceed to a bench trial before Judge Nathan. (June 14, 2021, Letter, ECF No. 23.) On July 1, 2021, Judge Nathan endorsed the parties' proposed pre-trial scheduling order and set a final pre-trial conference for January 5, 2022. (ECF No. 27.) On November 2, 2021, these consolidated cases were reassigned to this Court.

Federal Rule of Civil Procedure ("FRCP") 56(b) states, "[u]nless a different time is set by local rule or the court orders otherwise, a party may file a motion for summary judgment at any time until 30 days after the close of all discovery." During the Court's December 8, 2021, pre-motion status conference, the Trustee confirmed that discovery in these consolidated cases closed on September 17, 2019. Because more than two years have passed since the close of discovery, any

dispositive motion filed by the Trustee would be untimely and procedurally improper. Accordingly, the Court will not entertain summary judgment motion practice at this time. See Cestari v. Bancorp, Inc., 364 F.Supp.3d 327, 329 (S.D.N.Y. 2019) (denying request for pre-motion conference because "summary judgment motion practice . . . in this action would be needlessly wasteful of the parties' time and resources, likely futile, and . . . inconsistent with judicial economy"). The Trustee's request to file a motion for summary judgment is, therefore, DENIED.

SO ORDERED.

Dated: New York, New York
December 8, 2021


John F. Keenan
United States District Judge